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By: **Delegate O'Donnell**

Introduced and read first time: March 1, 2004

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Insurance Premium Tax - Health Maintenance Organizations and Managed**  
3                                   **Care Organizations - Repeal**

4 FOR the purpose of repealing the insurance premium tax imposed on health  
5 maintenance organizations and managed care organizations; repealing  
6 provisions that include in the premiums to be taxed certain amounts paid to a  
7 health maintenance organization or a managed care organization; authorizing  
8 certain premiums to be allowed as certain deductions from certain gross direct  
9 premiums; repealing a certain reporting requirement; repealing certain  
10 provisions relating to the applicability of a certain Act; making this Act  
11 contingent on the taking effect of another Act; making this Act an emergency  
12 measure; and generally relating to the insurance premium tax and health  
13 maintenance organizations and managed care organizations.

14 BY repealing

15 Article - Health - General  
16 Section 15-102.7  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume and 2003 Supplement)  
19 (As enacted by Chapter \_\_\_\_ (H.B. 753 of the Acts of the General Assembly of  
20 2003) of the Acts of the General Assembly of 2004)

21 BY repealing and reenacting, with amendments,

22 Article - Health - General  
23 Section 19-727  
24 Annotated Code of Maryland  
25 (2000 Replacement Volume and 2003 Supplement)  
26 (As enacted by Chapter \_\_\_\_ (H.B. 753 of the Acts of the General Assembly of  
27 2003) of the Acts of the General Assembly of 2004)

28 BY repealing and reenacting, with amendments,

29 Article - Insurance  
30 Section 6-101

1 Annotated Code of Maryland  
2 (2003 Replacement Volume)  
3 (As enacted by Chapter 153 of the Acts of the General Assembly of 2002 and  
4 Chapter \_\_\_\_ (H.B. 753 of the Acts of the General Assembly of 2003) of the  
5 Acts of the General Assembly of 2004)

6 BY repealing and reenacting, with amendments,  
7 Article - Insurance  
8 Section 6-102(b), 6-103, 6-104(a), and 6-107(a)  
9 Annotated Code of Maryland  
10 (2003 Replacement Volume)  
11 (As enacted by Chapter \_\_\_\_ (H.B. 753 of the Acts of the General Assembly of  
12 2003) of the Acts of the General Assembly of 2004)

13 BY repealing  
14 Chapter \_\_\_\_ (H.B. 753 of the Acts of the General Assembly of 2003) of the Acts of  
15 the General Assembly of 2004)  
16 Section 5 and 6

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Health - General**

20 [15-102.7.

21 The premium tax imposed under Title 6, Subtitle 1 of the Insurance Article  
22 applies to managed care organizations in the same manner as it applies to health  
23 maintenance organizations.]

24 19-727.

25 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A health  
26 maintenance organization is not exempted from any State, county, or local taxes  
27 solely because of this subtitle.

28 (B) (1) EACH HEALTH MAINTENANCE ORGANIZATION THAT IS AUTHORIZED  
29 TO OPERATE UNDER THIS SUBTITLE IS EXEMPTED FROM PAYING THE PREMIUM TAX  
30 IMPOSED UNDER TITLE 6, SUBTITLE 1 OF THE INSURANCE ARTICLE.

31 (2) PREMIUMS RECEIVED BY AN INSURER UNDER POLICIES THAT  
32 PROVIDE HEALTH MAINTENANCE ORGANIZATION BENEFITS ARE NOT SUBJECT TO  
33 THE PREMIUM TAX IMPOSED UNDER TITLE 6, SUBTITLE 1 OF THE INSURANCE  
34 ARTICLE TO THE EXTENT:

35 (I) OF THE AMOUNTS ACTUALLY PAID BY THE INSURER TO A  
36 NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT OPERATES ONLY AS A  
37 HEALTH MAINTENANCE ORGANIZATION; OR

1 (II) THE PREMIUMS HAVE BEEN PAID BY THAT NONPROFIT  
2 HEALTH MAINTENANCE ORGANIZATION.

3 **Article - Insurance**

4 6-101.

5 (a) The following persons are subject to taxation under this subtitle:

6 (1) a person engaged as principal in the business of writing insurance  
7 contracts, surety contracts, guaranty contracts, or annuity contracts;

8 [(2) a health maintenance organization authorized by Title 19, Subtitle 7  
9 of the Health - General Article;

10 (3) a managed care organization authorized by Title 15, Subtitle 1 of the  
11 Health - General Article;

12 [(4)] (2) an attorney in fact for a reciprocal insurer;

13 [(5)] (3) the Maryland Automobile Insurance Fund; and

14 [(6)] (4) a credit indemnity company.

15 (b) The following persons are not subject to taxation under this subtitle:

16 (1) a nonprofit health service plan corporation that meets the  
17 requirements established under §§ 14-106 and 14-107 of this article;

18 (2) a fraternal benefit society;

19 (3) A HEALTH MAINTENANCE ORGANIZATION AUTHORIZED BY TITLE 19,  
20 SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE;

21 [(3)] (4) a surplus lines broker, who is subject to taxation in accordance  
22 with Title 3, Subtitle 3 of this article;

23 [(4)] (5) an unauthorized insurer, who is subject to taxation in  
24 accordance with Title 4, Subtitle 2 of this article;

25 [(5)] (6) the Maryland Health Insurance Plan established under Title  
26 14, Subtitle 5, Part I of this article; [and] OR

27 [(6)] (7) the Senior Prescription Drug Program established under Title  
28 14, Subtitle 5, Part II of this article.

29 6-102.

30 (b) Premiums to be taxed include:

1 (1) the consideration for a surety contract, guaranty contract, or annuity  
2 contract;

3 [(2) subscription charges or other amounts paid to a health maintenance  
4 organization on a predetermined periodic rate basis by a person other than a person  
5 subject to the tax under this subtitle as compensation for providing health care  
6 services to members;

7 (3) gross receipts received as a result of capitation payments, including  
8 supplemental or bonus payments, made to a managed care organization for provider  
9 services to an individual who is enrolled in a managed care organization;

10 (4)] (2) dividends on life insurance policies that have been applied to  
11 buy additional insurance or to shorten the period during which a premium is payable;  
12 and

13 [(5)] (3) the part of the gross receipts of a title insurer that is derived  
14 from insurance business or guaranty business.

15 6-103.

16 The tax rate is:

17 (1) 0% for premiums for annuities; and

18 (2) 2% for all other premiums[; including:

19 (i) subscription charges or other amounts paid to a health  
20 maintenance organization; and

21 (ii) gross receipts received as a result of capitation payments,  
22 including supplemental or bonus payments, made to a managed care organization].

23 6-104.

24 (a) Subject to subsection (b) of this section, in computing the tax under this  
25 section, the following deductions from gross direct premiums allocable to the State  
26 are allowed:

27 (1) returned premiums, not including surrender values;

28 (2) dividends that are:

29 (i) paid or credited to policyholders; or

30 (ii) applied to buy additional insurance or to shorten the period  
31 during which premiums are payable; [and]

32 (3) returns or refunds made or credited to policyholders because of  
33 retrospective ratings or safe driver rewards; AND

1 (4) PREMIUMS RECEIVED BY A PERSON SUBJECT TO TAXATION UNDER  
2 THIS SUBTITLE UNDER POLICIES PROVIDING HEALTH MAINTENANCE  
3 ORGANIZATION BENEFITS TO THE EXTENT:

4 (I) OF THE AMOUNTS ACTUALLY PAID BY THE PERSON TO A  
5 NONPROFIT HEALTH MAINTENANCE ORGANIZATION AUTHORIZED BY TITLE 19,  
6 SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE THAT OPERATES ONLY AS A  
7 HEALTH MAINTENANCE ORGANIZATION THAT IS EXEMPT FROM TAXES UNDER §  
8 19-727(B) OF THE HEALTH - GENERAL ARTICLE; OR

9 (II) THAT THE PREMIUMS HAVE BEEN PAID BY A HEALTH  
10 MAINTENANCE ORGANIZATION THAT IS EXEMPT FROM TAXES UNDER § 19-727(B) OF  
11 THE HEALTH - GENERAL ARTICLE.

12 6-107.

13 (a) On or before March 15 of each year, each person subject to taxation under  
14 this subtitle shall:

15 (1) file with the Commissioner:

16 (i) a report of the new and renewal gross direct premiums less  
17 returned premiums written by the person during the preceding calendar year; AND

18 [(ii) a report of the gross receipts received as a result of capitation  
19 payments, including supplemental or bonus payments, made to a managed care  
20 organization during the preceding calendar year; and

21 (iii)] (II) if the person issues perpetual policies of fire insurance, a  
22 report of the average amount of deposits held by the person during the preceding  
23 calendar year in connection with perpetual policies of fire insurance issued on  
24 property in the State and in force during any part of that year; and

25 (2) pay to the Commissioner the total amount of taxes imposed by this  
26 subtitle, as shown on the face of the report, after crediting the amount of taxes paid  
27 with the declaration of estimated tax and each quarterly report filed under § 6-106 of  
28 this subtitle.

29 **Chapter \_\_\_ (H.B. 753 of the Acts of 2003) of the Acts of 2004**

30 [SECTION 5. AND BE IT FURTHER ENACTED, That:

31 (a) Notwithstanding any other provision of law, and except as otherwise  
32 provided in this section, the premium tax imposed under § 6-102 of the Insurance  
33 Article, as enacted by Section 1 of this Act, is applicable to:

34 (1) capitation payments, including supplemental or bonus  
35 payments, made to managed care organizations on or after July 1, 2003; and

1                   (2)       premiums written for all policies, contracts, and health benefit  
2 plans issued, delivered, or renewed in the State on or after July 1, 2003.

3                   (b)       The premium tax imposed under § 6-102 of the Insurance Article, as  
4 enacted by Section 1 of this Act, does not apply to:

5                   (1)       capitation payments, supplemental payments, or bonus  
6 payments made to managed care organizations before July 1, 2003;

7                   (2)       premiums written for all policies, contracts, and health benefit  
8 plans issued, delivered, or renewed in the State before July 1, 2003.

9                   (c)       Any health benefit plan in effect before July 1, 2003, shall comply  
10 with the provisions of Title 6 of the Insurance Article no later than July 1, 2004.]

11       [SECTION 6. AND BE IT FURTHER ENACTED, That, for taxable years  
12 beginning after December 31, 2003, the exemption under § 10-104 of the Tax -  
13 General Article is applicable to health maintenance organizations and managed care  
14 organizations that are subject to the insurance premium tax under Title 6 of the  
15 Insurance Article.]

16       SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on  
17 the taking effect of Chapter \_\_\_\_ (H.B. 753 of the Acts of the General Assembly of  
18 2003) of the Acts of the General Assembly of 2004, and if Chapter \_\_\_\_ does not  
19 become effective, this Act shall be null and void without the necessity of further action  
20 by the General Assembly.

21       SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
22 measure, is necessary for the immediate preservation of the public health or safety,  
23 has been passed by a ye and nay vote supported by three-fifths of all the members  
24 elected to each of the two Houses of the General Assembly, and shall take effect from  
25 the date it is enacted.